

AN
A D D R E S S
OF THE
CONVENTION
FOR FRAMING
A NEW
CONSTITUTION
OF
GOVERNMENT
FOR THE STATE OF
NEW-HAMPSHIRE, *State of. Convention*
TO THE *K for framing a*
INHABITANTS OF SAID STATE. *Constitution*
8th.



NEW-HAMPSHIRE:

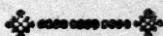
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M.DCC.LXXII.





A N
A D D R E S S, &c.



FRIENDS and FELLOW-CITIZENS,

THE GENERAL-ASSEMBLY of this State having thought proper to issue precepts to the several towns within the same, for choosing delegates to form a Convention for the purpose of framing a civil Constitution for the people of this State ; and the Convention having met in consequence of such choice, after maturely deliberating on the important subject, agree to report the following plan, which with the humblest deference is submitted to your impartial consideration.

THE task of forming a Constitution, adapted not only to our present situation, but to the probable situation and circumstances of remote pos-

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terity, is an arduous one indeed ! How far we have succeeded in it you are the sole judges. It is your interest as well as duty, to examine it with the most critical attention ; and it is your unquestionable right to propose such alterations as you may judge necessary, to approve and establish it as it now stands, or wholly to reject it.

A PERFECT system of Government is not to be expected in the present imperfect state of humanity. But could a faultless one be framed, it would not be universally approved unless its judges were all equally perfect. Much less then, may we presume to hope that the plan here offered to view will meet with universal approbation. Unanimity of sentiment is seldom to be found in any case ; there are many reasons for despairing of it in the present. Besides the common sources for variety of opinions on points in general, there are new and particular ones in the case before us. There is nothing which our *open, avowed enemies* more dread than to see the several States, each formed into a permanent and well-constructed body-politic, as nothing, under God, can more contribute to the stability of their councils, or the success of their exertions. Nor have we any reason to doubt but that our *secret, internal enemies* are equally averse thereto. Every artifice will be devised, every effort tried, to frustrate an event equally dreaded by both. Let us guard against their machinations.

NOR

NOR is it our *enemies* only we have to dread. We have much to fear from our *friends* : from those who wish well to the common cause, and are equally opposed to the common enemy.

THE love of *POWER* is so alluring, we had almost said infatuating, that few have ever been able to resist its bewitching influence. Wherever power is lodged there is a constant propensity to enlarge its boundaries. Much more then, will those with whom it is entrusted, agonize to retain all that is expressly delegated to them.

WHEN the people of this State first thought proper to assume government for themselves, it was a time of difficulty and peril. That form which was the simplest, and first presented itself to their view, in the perturbation of spirits that then prevailed, they adopted without that thorough discussion and calm deliberation which so important an object required. It was not intended to be lasting. It was expressly declared by themselves to be temporary.

In this imperfect form, the legislative and executive powers of government ~~were~~ vested in one body, to wit, in a *General-Court*, consisting of two branches, a *House of Representatives* and a *Council*. Nor was any provision made therein for the exercise of the executive-power in the recess of the *General-Assembly*. So great a *defect*

defect was soon discovered and felt ; and the Court thus established by the Constitution, without any new Authority derived from the people, or without even consulting them, patch'd this flaw by delegating to a number of persons, whom they termed "The Committee of Safety," the executive power, to be by them exercised in the recess of the General-Assembly; which mode has been since continued, and the Committee have made an important part of the government.

A FURTHER defect, among innumerable others, is the want of an Exclusion-Bill : In consequence of which, many of the individuals who compose the aforementioned body, assist in enacting laws, in explaining and applying them, and in carrying them into execution.

CAN it seem strange then, that such persons, and indeed all who are vested with the aforementioned powers, should be backward in receiving and approving of a Constitution that so remarkably retrenches them ? that sets out in direct opposition to the present one, with this position, that the three essential powers of government ought ever to be kept totally independent of each other ? It is not strange, it is perfectly natural ; and the fact is fully verified by the length of time which the present form of government has been permitted to continue. But we trust, you will with a manly and becoming firmness, oppose every interested adviser, reject

reject every selfish motive, and with a noble independency of spirit "even of yourselves judge what is right."

HAVING premised these things, we will proceed to consider as critically as the limits of our time will admit, the frame of government herewith exhibited to your view ; its principles, and some of the motives that induced us to prefer it to any other system which occurred to us.

AVAILING ourselves of the various theories and forms of government we could meet with, whether new or old, examining their principles, and comparing them, as far as we were able, with experience, the surest touchstone, and most infallible comment, we collected sufficient, and we hoped the best, materials for the political building now presented to your view.

THE three powers of government, before hinted at, to wit---The legislative, or power of making laws---The judicial, or power of expounding and applying them to each particular case---And the executive, to carry them into effect, and give the political machine life and motion : These three important powers we have thought proper to keep as separate and distinct as possible, for the following reasons.

IF they should be all united, the government would then be a complete system of tyranny. The same party would be legislator, accuser, judge, and executioner.

IF the legislative and judicial powers should be united, the maker of the law would be the interpreter thereof, and might make it speak what language best pleased him, to the total abolition of justice.

IF the executive and legislative powers should be vested in one body, still greater evils would follow. This body would enact only such laws as it wished to carry into execution, and would, besides, entirely absorb and destroy the judicial power, one of the greatest securities of the life, liberty, and property of the subject ; and in fine, would produce the same system of despotism first mentioned.

AND lastly, should the executive, and judicial powers be combined, the great barrier against oppression would be at once destroyed : The laws would be made to bend to the will of that power which sought to execute them with the most unbridled rapacity.

THESE several powers should also be independent ; in order to which they are formed with a mutual check upon each other. We shall proceed to consider them distinctly.

THE Legislative-power we have vested in a Senate and House of Representatives (with the reserve hereafter mentioned) each of which branches is to have a negative on the other ; and either may originate any Bill, except for the grant of monies, which is always to originate in the House.

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Any alterations or amendments may be proposed by either branch, in all cases. We have given the supreme executive power the right of revising and objecting to all the acts passed by the legislature, for reasons hereafter to be mentioned.

THE manner of electing the second branch, or House of Representatives, as it is now, requires a particular discussion.

EXPERIENCE must have convinced every one who has been, in any degree, conversant with the transacting of business in public bodies, that a very large assembly is not the most convenient for the purpose. There is seldom so much order, and never so much dispatch, as is to be found in a smaller body. The reason is obvious. This has given birth to the mode of chusing committees out of the whole body; and experience hath demonstrated its utility. The Convention, therefore, were of opinion, that the confining this second branch to the number of fifty, which appeared to them sufficiently large for every purpose, would be attended with the following salutary consequences.

FIRST, There would be, probably, a greater proportion of suitable men, than in a larger body. The manner of their choice, they being twice sifted, would likewise greatly promote this. The debates, would of course, be conducted with more wisdom, and unanimity. From their numbers merely, there would be much less confusion, and

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infinitely more dispatch. This would of itself, produce an amazing saving in the expence, independent of the difference between paying fifty, and three times that number. For these and many other reasons, the reducing and confining this branch to a small number, was surely an achievement devoutly to be wished ! But how was it to be effected ? Should the mode hitherto practised of chusing members, be continued, scarce three towns in the State would be each entitled to elect one. Should several towns be joined together till a number sufficiently large was collected to choose a representative, this would be abridging the priviledges of towns, confounding them with each other, and destroying their independence. This has been practised in some few instances, but has been the source of much complaint, and many heavy evils.

THE Convention therefore, after revolving the matter with the utmost attention, could hit upon no method that appeared to them, in all respects, so unexceptionable as the one here offered. By allowing every town and parish having fifty rateable polls to elect one member to compose a certain body, out of which the people's representatives are to be chosen, almost every town and parish within the State that would wish to exert the priviledge, is included, and even such as have less than fifty rateable polls are permitted to join another. Besides, in a few years, tis probable, there will be no towns which have not fifty families

milies at least within the State. The larger towns being permitted to choose in the same proportion renders the representation as equal as the nature of things will admit.

THESE bodies thus chosen, one in each county, after dividing the districts as mentioned in the Constitution, are respectively to choose from among themselves the representatives of the people to sit in the General-Court. This mode will be found, perhaps, as free, equal, and perfect, as any that can be devised. The objection, that in this way each town will not know, nor have the power of designating its own representative, will, perhaps, on examination, be found one of the strongest arguments in its favor. These interested views, that party spirit, and zeal for rivalry, which too often takes place in towns on such occasions, will be hereby in a great measure destroyed ; and the people will be under a necessity of acting upon higher and better principles.

THE provision for publishing the journals of both Houses at the close of each session, supersedes another objection that might be started against the want of information among the people, that the smallness of the Representative-body might otherwise occasion. The only remaining objection of any weight, is the ill consequences that may arise from the assembling so large a number of people together at the County-Conventions. To this it is replied, that the County-

Delegates thro' the State, will be divided into five separate and distant bodies---that all will sit on the same day---and probably not more than one day, unless upon extraordinary occasions---that they will be the chosen ones of the people, a most respectable body, with too much business on their hands to allow them time for dissipation, and too much of the people's welfare at their hearts to permit them to sow sedition. And even allowing some of the inconveniences hinted at really to follow, they must be less than if all should unite in one General-Assembly, and sit, not one or two days only, but half the year, in the proportion of a hundred to one.

WE have been thus particular upon this head of representation, partly on account of the novelty of the *mode*, and partly from a full conviction of the vast importance of the *thing*. And we leave it for your faithful discussion ; observing as we do it, that it is what many great, wise, and learned men of our own, and other days, have wished to see put in practice, and have not seen it.

THE choice and powers of the SENATE, having less of novelty, and being sufficiently explained in the Constitution, we shall pass over with a bare mention, and proceed to the EXECUTIVE-POWER.

THIS Power is the active principle in all governments : It is the soul, and without it the body-politic is but a dead corpse.

Its department is to put in execution all the laws enacted by the legislative-body. It ought therefore

therefore to have the appointment of all the civil officers of the State. It is at the head of the militia, and therefore should have equally the appointment of all the military-officers within the same. Its characteristic requisites are secrecy, vigour, and dispatch. The fewer persons, therefore, this supreme-power is trusted with, the greater probability there is that these requisites will be found. The Convention therefore, on the maturest deliberation, have thought it best to lodge this power in the hands of *one*, whom they have stiled **THE GOVERNOR**. They have, indeed, array'd him with honors, they have armed him with power, and set him on high. But still he is only the right-hand of *your* power, and the mirror of *your* majesty. Every possible provision is made to guard against the abuse of this high betrustment, and protect the rights of the people.

THE manner of his choice is such, that he is the most perfect representative of the people. He can take no one step of importance without the advice of his privy-council; and he is elected annually. But, as if this was too little, no one person is capable of being elected oftener than three years in seven. Every necessary and useful qualification is required in him, in point of age, religion, residency, and fortune. In addition to all which, he is liable for every misconduct to be impeached, tried and displaced, by the two legislative branches; and is amenable to the laws besides, equally with the meanest subject of the State. Thus controlled and checked himself,

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the Convention thought it reasonable and necessary, that he, in turn, should have some check on the legislative-power. They therefore gave him the right of objecting to and suspending, tho' not the absolute control over the acts of that body ; which they thought indispensably necessary to repel any encroachments on the executive power, and preserve its independency.

THE Judicial department falls next under our consideration.

THIS comprehends the Judges of the several courts, and the Justices of peace throughout the State. These are all appointed by the Governor, with the advice of Council, but not removable by him in case of mal-conduct, but by the legislature---and in no case without the intervention of that body.

THE Judges all hold their offices during good behaviour ; the only proper tenure, especially for the Judges of the Supreme-Court of Judicature, as they ought, in a peculiar manner, to feel themselves independent and free, and as none would be at the pains to qualify themselves for such important places, if they were liable to be removed at pleasure. As another inducement for persons so to qualify themselves, as an encouragement to vigilance, and an antidote to bribery and corruption ; adequate, honorable, and permanent salaries to the Judges of the Supreme Court in a particular manner, we have made essential in the Constitution, and do now most strongly recommend.

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THE alteration of Justices' commissions from life to five years, is to guard against age, incapacity, and too large a number ; to secure the appointment of the best ; and to prevent too frequent addresses and impeachments. You will judge of the propriety and expediency of this innovation, and either give it your sanction or not, as appears to you best.

THE reasons for the EXCLUSION BILL, are too obvious to need pointing out. Sad experience has evinced the necessity of such a provision. Besides the interference of several offices held by the same person, in point of *time*, which we have often *seen*; and the difficulty of one man's giving his attention to many matters sufficiently to understand them all, which we have too often *felt*; there is a still stronger reason, which is the difficulty of a man's preserving his integrity in discharging the duties of each unstained——at least by suspicion.

FROM the deepest impression of the vast importance of LITERATURE in a free government, we have interwoven it with, and made its protection and encouragement a part of the Constitution itself.

The BILL of RIGHTS contains the essential principles of the Constitution. It is the foundation on which the whole political fabric is reared, and is consequently, a most important part thereof.

We have endeavour'd therein to ascertain and define the most important and essential natural rights of men. We have distinguished betwixt
the

the alienable and unalienable rights : For the former of which, men may receive an equivalent ; for the latter, or the RIGHTS of CONSCIENCE, they can receive none : The World itself being wholly inadequate to the purchase. "For what is a man profited, though he should gain the whole world, and lose his own soul ?"

THE various modes of worship among mankind, are founded in their various sentiments and beliefs concerning the GREAT OBJECT of all religious worship and adoration, — therefore to HIM alone, and not to man, are they accountable for them.

THUS the Convention have endeavoured to explain as particularly as they could without trespassing on your patience, the reasons and principles upon which they have laboured to form this Constitution. They have done it in integrity and faithfulness. They conceived themselves as part of the community for which the Constitution is intended, and therefore equally interested with the other members in framing the best. Whatever latent defects there may be in it, time will discover them---and, at the end of seven years, provision is made that they may be amended— Confiding therefore, in your candour, and humbly imploring on your behalf, that assistance which the fountain of wisdom sees you need, we leave it in your hands, and wait with cheerful acquiescence, your decision.

In the Name, and pursuant to a Resolution of the Convention,

GEORGE ATKINSON, *President.*

Attest. JONA. M. SEWALL, *Secretary.*

A
CONSTITUTION
OR
F O R M
OF
GOVERNMENT,
Agreed upon by the **DELEGATES**
OF THE
PEOPLE of the State of NEW-HAMPSHIRE,
IN
CONVENTION,

Begun and held at **CONCORD**, on the second
Tuesday of June, 1781, and continued by
Adjournment to the second Tuesday
of September following :
To be submitted to the **PEOPLE** for their
revision, in order to the completing of the
same, in conformity to their amend-
ments, at a session to be holden
for that purpose, on the
fourth Wednesday of
January next.







A
CONSTITUTION
 OR
FORM of GOVERNMENT
 FOR THE
STATE of NEW-HAMPSHIRE.

PART I.

A
DECLARATION OF THE RIGHTS
 OF THE
PEOPLE of NEW-HAMPSHIRE.

ARTICLE I.

ALL men are born equally free and independent, therefore all government of right originates from the people, is founded in consent, and instituted for the general good.

II.

ALL men have certain natural, essential, and inherent rights, among which are---the enjoying and defending life and liberty---acquiring, possessing and protecting property---and in a word, of seeking and obtaining happiness.

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III.

III.

WHEN men enter into a state of society they surrender up some of their natural rights to that society in order to ensure the protection of others, and without such an equivalent the surrender is void.

IV.

AMONG the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.

V.

EVERY individual has a natural and unalienable right to worship G O D according to the dictates of his own conscience, and reason---- and no subject shall be hurt, molested, or restrained in his person, liberty or estate for worshipping G O D, in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion ; provided he doth not disturb the public peace, or disturb others in their religious worship.

VI.

As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection ; and as the knowledge of these, is most likely to be propagated through a society by the institution of the public worship of the DEITY and of public instruction in morality

morality and religion ; therefore to promote those important purposes, the people of this State have a right to impower, and do hereby fully impower the Legislature to authorize from time to time, the several towns, parishes, bodies-corporate or religious societies within this State, to make adequate provision at their own expence, for the support and maintenance of public protestant teachers of piety, religion and morality :

Provided notwithstanding, That the several towns, parishes, bodies-corporate or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

AND every denomination of christians demeaning themselves quietly and as good subjects of the State, shall be equally under the protection of the law : And no subordination of any one sect or denomination to another, shall ever be established by law.

AND nothing herein shall be understood to affect any former contracts made for the support of the ministry, but all such contracts shall remain and be in the same state as if this Constitution had not been made.

VII.

THE people of this State have the sole and exclusive right of governing themselves as a free, sovereign, and independent State, and do, and forever hereafter shall, exercise, and enjoy every power, jurisdiction and right pertaining thereto, which is not, or may not hereafter be by them expressly delegated to the United States of America in Congress assembled.

VIII.

ALL power residing originally in, and being derived from the people, all the magistrates, and officers of government, are their substitutes and agents, and at all times accountable to them.

IX.

No office or place whatsoever in government shall be hereditary---the abilities and integrity requisite in all, not being transmissible to posterity or relations.

X.

GOVERNMENT being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men, therefore whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government ; the doctrine of non-resistance

sistance against arbitrary power, and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

XI.

All elections ought to be free, and every inhabitant of the State having the proper qualifications, has equal right to elect, and be elected into office.

XII.

EVERY member of the community has a right to be protected by it in the enjoyment of his life, liberty and property---he is therefore bound to contribute his share in the expence of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the Representative body of the people. Nor are the inhabitants of this State controllable by any other laws than those to which they or their Representative body have given their consent.

XIII.

No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

XIV.

EVERY subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property or character, to obtain right and

and justice freely, without being obliged to purchase it ; completely, and without any denial ; promptly, and without delay, conformably to the laws.

XV.

No subject shall be held to answer for any crime, or offence, until the same is fully and plainly, substantially and formally, described to him ; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself ; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, and Counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land.

XVI.

No subject shall be liable to be tried, after an acquittal, for any crime or offence whatsoever. Nor shall the Legislature make any law that shall subject any person to a capital punishment, excepting for the government of the army and navy, and the militia in actual service, without trial by jury.

XVII.

IN criminal prosecutions, the trial of facts in the vicinity where they happen, is so essential to the security of the life, liberty and estate of the

the citizen, that no crime or offence ought to be tried in any other County than where it is committed.

XVIII.

ALL penalties ought to be proportioned to the nature of the offence. No wise Legislature will affix the same punishment to the crimes of theft, forgery and the like, that they do to those of murder and treason, where the same undistinguishing severity is exerted against all offences--the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do those of the lightest dye, for the same reason a multitude of sanguinary laws are both impolitic and unjust. The true design of all punishments being to reform, not to exterminate, mankind.

XIX.

EVERY subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them, be not previously supported by oath, or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued

but in cases, and with the formalities prescribed by the laws.

XX.

IN all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by jury ; and this method of procedure shall be held sacred, unless in causes arising on the high seas, and such as relate to mariners wages, the Legislature shall find it necessary hereafter to alter it.

XXI.

IN order to reap the fullest advantage of the inestimable privilege of the trial by JURY, great care ought to be taken that none but qualified persons should be capable of serving, and such ought to be fully compensated for their travel, time and attendance.

XXII.

THE liberty of the Press is essential to the security of freedom in a State ; it ought therefore to be inviolably preserved.

XXIII.

RETROSPECTIVE laws are highly injurious, oppressive and unjust. No such laws therefore should be made, either for the decision of civil causes, or the punishment of offences.

XXIV.

A well regulated militia is the proper, natural, and sure defence of a State.

XXV.

XXV.

STRANDING armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the Legislature.

XXVI.

IN all cases, and at all times, the military ought to be under strict subordination to, and governed by the civil power.

XXVII.

No soldier in time of peace shall be quarter'd in any house without the consent of the owner, and in time of war such quarters ought not to be made but by the civil magistrate, in a manner ordained by the Legislature.

XXVIII.

No subsidy, charge, tax, impost or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their Representatives in the Legislature or authority derived from that body.

XXIX.

THE power of suspending the laws, or the execution of them, ought never to be exercised but by the Legislature, or by authority derived therefrom, to be exercised in such particular cases only as the Legislature shall expressly provide for.

XXX.

THE freedom of deliberation, speech, and debate, in either House of the Legislature, is so essential to the rights of the people, that it

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cannot

cannot be the foundation of any action, complaint, or prosecution, in any other Court or place whatsoever.

XXXI.

THE Legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new ones, as the common good may require.

XXXII.

THE people have a right in an orderly and peaceable manner, to assemble in order to consult upon the common good, give instructions to their Representatives ; and to request of the Legislative-body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

XXXIII.

No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXXIV.

No person can in any case be subjected to law-martial, or to any pains, or penalties, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by the authority of the Legislature.

XXXV.

It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial

impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy but for the security of the rights of the people that the judges of the Supreme (or Superior) Judicial Court should hold their offices so long as they behave well; and that they should have honorable salaries, ascertained and established by standing laws.

XXXVI.

OECONOMY being a most essential virtue in all States, more especially in a young one, no person ought to receive any stipend, or salary, but as an equivalent for actual services---and the Legislature ought to be exceeding cautious of granting pensions, especially for life.

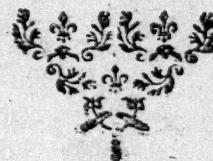
XXXVII.

IN the government of this State, the three essential powers thereof, to wit, the LEGISLATIVE, EXECUTIVE and JUDICIAL, ought to be kept as separate from and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

XXXVIII.

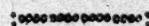
A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance,

industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government ; the people ought therefore, to have a particular regard to all those principles in the choice of their officers and representatives ; And they have a right to require of their law-givers and magistrates an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government,





A
CONSTITUTION
 OR
FORM of GOVERNMENT
 FOR THE
STATE of NEW-HAMPSHIRE.



P A R T II.

THE people inhabiting the territory formerly called the Province of New-Hampshire, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent Body-politic or State, by the Name of the **STATE of NEW-HAMPSHIRE.**

THE GENERAL COURT.

THE supreme legislative power within this State shall be vested in a Senate and House of Representatives, each of which shall have a negative on the other.

THE Senate and House shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary, and shall dissolve, and be dissolved, seven days next preceding the said first Wednesday of June; and shall be styled **THE GENERAL COURT of NEW-HAMPSHIRE.**

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No bill or resolve of the Senate or House of Representatives shall become a law, and have force as such, until it shall have been laid before the Governor for his revision; And if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he has any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the Senate or House of Representatives, in which soever the same shall have originated; who shall enter the objections sent down by the Governor, at large, on their records, and proceed to reconsider the said bill or resolve: But if upon such reconsideration, three quarters of the said Senate or House of Representatives, shall notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the Legislature, where it shall be also reconsidered, and if approved by three quarters of the members present, it shall have the force of a law: But in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the State.

AND in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the Governor within eight days after it shall have been presented, the same shall have the force of a law.

THE General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be holden in the name of the State, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, plaints, actions, causes, matters and things, whatsoever, arising, or happening within this State, or between or concerning persons inhabiting, or residing or brought within the same, whether the same be criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real, personal or mixt ; and for the awarding and issuing Execution thereon : To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

AND farther, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties or without ; so as the same be not repugnant or contrary to this Constitution, as they may judge for the benefit and welfare of this State, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof ; and to name and settle annually, or provide by fixed laws, for the naming and settling

settling all civil officers within this State ; such officers excepted, the election and appointment of whom, are hereafter in this form of government otherwile provided for ; and to set forth the several duties, powers and limits, of the several civil and military officers of this State, and the forms of such oaths or affirmations, as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this Constitution ; and also to impose fines, mulcts, imprisonments, and other punishments ; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within the said State ; and upon all estates within the same ; to be issued and disposed of by warrant under the hand of the Governor of this State for the time being, with the advice and consent of the Council, for the public service, in the necessary defence and support of the government of this State, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

AND while the public charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has hitherto been practised ; in order that such assessments may be made with equality, there shall be a valuation of the estates within the State taken anew once in every five years at least, and as much oftner as the General Court shall order.

SENATE.

SENATE.

THERE shall be annually elected by the free-holders and other inhabitants of this State, qualified as in this Constitution is provided, twelve persons to be Senators for the year ensuing their election ; to be chosen in and by the inhabitants of the districts, into which this State may from time to time be divided by the General Court, for that purpose : And the General Court, in assigning the number to be elected by the respective districts, shall govern themselves by the proportion of public taxes paid by the said districts ; and timely make known to the inhabitants of the State, the limits of each district, and the number of Senators to be elected therein ; provided the number of such districts shall never be more than ten, nor less than five.

AND the several Counties in this State, shall, until the General Court shall order otherwise, be districts for the election of Senators, and shall elect the following number, viz.

Rockingham, Five.

Strafford, Two.

Hillsborough, Two.

Cheshire, Two.

Grafton, One.

THE Senate shall be the first branch of the legislature ; and the Senators shall be chosen in the following manner, viz. every male inhabitant of each town and parish with town-privileges, in the several counties in this state, of twenty one years of age and upwards, having a freehold estate in his

own right of the value of *one hundred pounds*, situate in this state, or other estate to that amount, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senators in the county or district whereof he is a member.

AND every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this state, in that town, parish or plantation where he dwelleth and hath his home.

THE selectmen of the several towns and parishes aforesaid, shall, during the choice of senators, preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for senators, and shall sort and count the same in the meeting, and in presence of the town clerk, who shall make a fair record in presence of the selectmen, and in open meeting, of the name of every person voted for, and the number of votes against his name, and a fair copy of this record, shall be attested by the selectmen and town clerk, and shall be sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof, and delivered by the said clerk to the sheriff of the county in which such town or parish lies, thirty days at least, before the first Wednesday of June; and the sheriff of each county,

or

or his deputy, shall deliver all such certificates by him received, into the secretary's office, seventeen days, at least, before the first Wednesday of June.

AND the inhabitants of plantations&places unincorporated, qualified as this constitution provides, who are, or shall be, required to assess taxes upon themselves towards the support of government, or shall be taxed therefor ; shall have the same privilege of voting for senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have: And the meetings of such plantations and places for that purpose shall be holden annually in the month of March, at such places respectively therein, as the assessors thereof shall direct ; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town-clerks have in their several towns by this constitution.

AND that there may be a due meeting of senators on the first Wednesday of June annually, the Governor and three of the Council for the time being, shall as soon as may be, examine the returned copies of such records ; and fourteen days before the said first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators by a majority of votes, to attend and take their seats on that day : Provided, nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government ; and the said president shall in like

manner notify the persons elected, to attend and take their seats accordingly.

THE senate shall be final judge of the elections, returns, and qualifications of their own members, as pointed out in this constitution, and shall on the said first Wednesday of June annually, determine and declare, who are elected by each district to be senators by a majority of votes: And in case there shall not appear to be the full number returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. the members of the house of representatives and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in each district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by joint ballot the number of senators wanted for such district: And in this manner all such vacancies shall be filled up in every district of the state, and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies happen.

Provided nevertheless, That no person shall be capable of being elected a senator, who is not of the Protestant Religion, and seized of a freehold estate in his own right of the value of four hundred pounds, clear of debt, lying within this state, and who is not of the age of thirty years, and who shall not have been an inhabitant of this state for **seven**

seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

THE senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

THE senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings. And not less than eight members of the senate shall make a quorum for doing business.

THE senate shall be a court with full power and authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the state, for misconduct or mal-administration in their offices. But previous to the trial of any such impeachment, the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question according to evidence. Their judgment, however, shall not extend farther than removal from office, disqualification to hold or enjoy any place of honor, trust or profit under this state; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to the laws of the land.

HOUSE OF REPRESENTATIVES.

THERE shall be in the legislature of this state, a representation of the people, consisting of fifty members, apportioned upon each county, as follows, viz. for

for the county of

Rockingham, twenty.

Strafford, eight.

Hilisborough, ten.

Cheshire, eight.

Grafton, four.

And elected in county-conventions.

In order that the representation of the citizens of this state, may be as equal as a large political society will admit ; every corporate town, and parish, having town privileges, containing fifty rateable polls, may elect one delegate for such county convention, wherein such town or parish lies ; every such town, or parish, containing one hundred rateable polls, may elect two such delegates, and so proceeding in that manner, making fifty the mean increasing number for every additional delegate. And if after the fifties are deducted, there should remain twenty five, or more such rateable polls, that remaining number shall entitle such town or parish to elect another delegate therefor. And every corporate town, or parish with town-privileges, which now, or hereafter, shall not contain fifty rateable polls, shall have a right to join, or associate with some town or towns adjoining, for the election of delegates ; and in such cases, the voters thus united, shall have a right to elect the same number of delegates, as they would have done were they inhabitants of one corporate town ; which delegates may be elected out of either of the associated towns, or parishes, indifferently. And the legislature, from time to time, shall determine what towns or parishes

ishes shall thus associate, the manner of their association, and the method of calling and conducting the meetings of such associated towns and parishes, for the election of delegates to the county conventions.

THE delegates for the county conventions shall be elected by a majority of written votes, and no person shall be a delegate, unless he be of the Protestant Religion, and for two years next preceding his election an inhabitant of the town, parish, or association, for which he may be chosen ; and shall have an estate of the value of two hundred pounds clear of debt, one half of which, shall be a freehold whereof he is seized in his own right, situate in the town, parish, or association, for which he may be elected.

THE meetings of the several towns, parishes and associations, for the choice of such delegates, shall after being duly warned; be holden in the respective towns, parishes & associations in the month of March annually. The selectmen of the several towns, parishes and associations, shall preside at such meetings, receive the votes of the inhabitants thereof present, and qualified to vote for such delegates, in presence of the clerk thereof, who shall make a fair record in said meeting, in presence of the selectmen, of the names of the delegates chosen by a majority of votes, and of the number of votes for each against his name; and a fair copy of this record shall be attested by the selectmen and clerk of the meeting, and timely delivered to each delegate.

THE

THE conventions for the choice of representatives for each county shall be holden at the following time and places, viz, on the third Wednesday of April annually.

At *Chester*, for and in the county of *Rockingham*.

At *Rochester*, for and in the county of *Strafford*.

At *Amherst*, for and in the county of *Hillsborough*.

At *Walpole*, for and in the county of *Cheshire*.

At *Haverhill*, for and in the county of *Grafton*.

THE places for holding such conventions, may be altered by the legislature, for others more convenient within the respective counties.

A quorum of each convention for doing business, shall never be less than two thirds of its members.

EACH convention shall be the judge of the returns, qualifications, and elections of its own members as pointed out in the constitution, shall choose their own president and clerk, and settle rules for their own proceedings.

EACH county shall contain as many districts, as the same shall have representatives, and each district in each county, shall be so divided by the respective annual conventions, as each shall contain aqual number of rateable polls, or as near as may be.

THE several counties in the state shall be so divided into districts by the convention of each county, at their first annual meetings; and forever after at every fifth annual convention. Which being done, each convention, shall elect by a majority

majority of written votes out of the members who are chosen to compose such convention, a representative for each district ; and living within the district for which he may be chosen. And the president of such convention, with the clerk, shall sort and count the votes, and declare who are chosen representatives by a majority of votes for each district within such county, and the clerk shall make a fair record of the names of each representative, and of the number of votes for each against his name, in open convention ; and deliver a copy of the record attested by the president and clerk, to each representative, as soon as may be. Each convention shall have power to adjourn themselves, but not longer than two days at a time. All intermediate vacancies in the house of representatives, may be filled up from time to time by the convention of the county wherein the same may happen, agreeably to the writ from the house of representatives for that purpose : Which occasional convention shall be holden at the same places appointed for the annual ones, and at such times as the writ shall direct ; and such representatives shall be elected and returned, in like manner as those at the annual conventions.

THE house of representatives shall be chosen annually, and shall be the second branch of the legislature.

THE wages and travel to the General Court, and returning home, once in every session, shall be paid out of the public treasury, to every member, who in the judgment of the house, shall attend seasonably, and not depart without leave.

THE house of representatives shall be the grand inquest of the state, and all impeachments made by them, shall be heard and tried by the senate.

ALL money-bills shall originate in the house of representatives, but the senate may propose or concur with amendments as on other bills.

THE house of representatives shall have power to adjourn themselves, but not longer than two days at a time.

Two thirds of the members of the house of representatives elected, provided the said two thirds do not amount to a less number than thirty, shall make a quorum for doing business.

No member of the house of representatives or senate shall be arrested, or held to bail on mean process, during his going to, returning from, or attendance upon the court.

THE house of representatives shall choose their own speaker, appoint their own officers, settle the rules of proceedings in their own house ; and issue writs to fill up any intermediate vacancies therein. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly and contemptuous behaviour ; or by threatening, or ill-treating any of its members ; or by obstructing its deliberations ; every person guilty of a breach of its privileges in making arrests for debt, or by assaulting any of its members during his attendance at any session, in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house, in assaulting any witness,

witness, or other person, ordered to attend by and during his attendance of the house, or in rescuing any person arrested by order of the house, knowing them to be such. The Senate, and Governor, and Council, shall have the same powers in like cases, provided that no imprisonment by either for any offence exceed ten days.

THE journals of the proceedings of both houses of the General Court, shall be printed & published immediately after every adjournment, or prorogation ; and upon motion made by any one member ; the yeas and nays upon any question, shall be taken and entered in the journals.

THE legislature shall once every five years from the commencement of this constitution, apportion the representatives anew to and for each county, according to the number of rateable polls each may contain.

EXECUTIVE POWER.

GOVERNOR.

THERE shall be a supreme executive Magistrate, who shall be styled, THE GOVERNOR OF THE STATE OF NEW-HAMPSHIRE ; and whose TITLE shall be HIS EXCELLENCY.

THE Governor shall be chosen annually ; and no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and unless he shall be of the age of thirty years, and unless he shall, at the same time, have

an estate of the value of one thousand pounds, one half of which shall consist of a freehold, clear of debt, within the state ; and unless he shall be of the protestant religion.

THOSE persons qualified to vote for delegates to the county-conventions, within the several towns, parishes, and plantations, of this state, shall at a meeting to be called for that purpose, some day in the month of March annually, give in their votes for a Governor to the selectmen, who shall preside at such meeting, and the clerk in the presence and with the assistance of the selectmen, shall in open meeting sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name ; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting ; and shall in the presence of said inhabitants seal up a copy of said list attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday of June, or shall cause returns of the same to be made to the office of the secretary of the state, seventeen days at least, before said day ; who shall lay the same before the senate and house of representatives on the first Wednesday of June, to be by them examined : And in case of an election by a majority of votes thro' the state, the choice shall be by them declared, and published : But if no person shall have a majority of votes, the house of representatives shall by ballot elect two out of four persons

persons who had the highest number of votes, if so many shall have been voted for ; but if otherwise, out of the number voted for ; and make return to the senate of the two persons so elected, on which the senate shall proceed by ballot to elect one of them, who shall be declared GOVERNOR.

THE Governor, with advice of Council, shall have full power and authority in the recess of the general-court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court ; and during the session of said court, to adjourn or prorogue it to any time the two houses may desire ; and to call it together sooner, than the time to which it may be adjourned, or prorogued, if the welfare of the state should require the same.

IN cases of disagreement between the two houses, with regard to the time of adjournment, or prorogation, the Governor, with advice of Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days, at any one time, as he may determine the public good may require. And he shall dissolve the same seven days before the said first Wednesday of June. And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause whereby dangers may arise to the healths, or lives, of the members from their attendance, the Governor may direct the session to be holden at some other the most convenient place within the state.

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THE Governor of this state for the time being, shall be commander in chief of the army and navy, and all the military forces of the state, by sea and land : and shall have full power by himself, or by any chief commander, or other officer, or officers, from time to time, to train, instruct, exercise and govern the militia and navy ; and for the special defence and safety of this state, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this state ; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprize and means, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this state ; and to use and exercise over the army and navy, and over the militia in actual service, the law martial in time of war, invasion, and also in rebellion, declared by the legislature to exist, as occasion shall necessarily require. And also from time to time, to erect forts, and fortify any place or places within the said state, and the same to furnish with all necessary ammunition, provisions and warlike stores for defence & offence, and to commit, from time to time, the custody and government of the same, to such person or persons as to him may seem meet : And in times of emergency, the said forts and fortifications to demolish at his discretion ; and to take and

and surprize by all ways and means whatsoever; all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering, or annoying this state; and in fine, that the governor be, and hereby is intrusted with all other powers incident to the office of Captain-General and Commander in Chief, and Admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land. Provided, that the governor shall not at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this state, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; nor grant commissions for exercising the law-martial upon any of the inhabitants of this state, without the advice and consent of the Council of the same.

The power of pardoning of offences, except such as persons may be convicted of before the senate by the impeachment of the house, shall be in the Governor, by and with the advice of the Council: But no charter of pardon granted by the Governor, with advice of council, before conviction, shall avail the party pleading the same notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

ALL judicial officers, the Attorney-General, Solicitor-General, all Sheriffs, Coroners, Registers of Probate, and other civil officers, except such as are to be otherwise elected or appointed by this constitution, or the laws of the State, and all officers of the militia and navy shall be nominated and appointed by the Governor, by and with the advice and consent of the council ; and every such nomination shall be made by the Governor at least seven days prior to such appointment.

No officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the Governor, or by fair trial in court-martial, pursuant to the laws of the state for the time being.

THE commanding officers of regiments shall appoint their adjutants and quarter-masters ; the brigadiers their brigade-majors ; the major-generals their aids ; the captains and subalterns their non-commissioned officers.

THE Governor, with advice of Council, shall appoint all officers of the Continental army, whom by the confederation of the united states it is provided that this state shall appoint, as also all officers of forts and garrisons.

THE division of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this state, until the same shall be altered by some future law.

No monies shall be issued out of the treasury, of this state ; and disposed of, (except such sums

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as may be appropriated for the redemption of bills of credit or treasurers notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, by and with the advice and consent of the council, for the necessary support and defence of this state, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

ALL public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this state, and all commanding officers of forts and garrisons within the same, shall once in every three months officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages and small arms, with their accoutrements, and of all other public property under their care respectively; distinguishing the quantity, and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors adjacent.

AND to prevent an undue influence in this state, which the first magistrate thereof may acquire, by the long possession of the important powers and trusts of that office, as also to stimulate others to qualify themselves for the service of the public, in the highest stations, no man shall

be eligible as governor of this state, more than three years in any seven.

AND as the public good requires, that the Governor should not be under the undue influence of any members of the two houses, by a dependence on them for his support; that he should in all cases act with freedom for the benefit of the public; that he should not have his attention necessarily diverted from that object to his private concerns; and that he should maintain the dignity of the state in the character of its Chief Magistrate; it is necessary that he should have an honorable stated salary of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws; and it shall be among the first acts of the general court after the commencement of this constitution, to establish such salary by law accordingly.

PERMANENT and honorable salaries shall be established by law for the Justices of the superior court.

WHENEVER the chair of the Governor shall be vacant, by reason of his death, absence from the state, or otherwise, the President of the Senate, for the time being, shall during such vacancy, have and exercise all the powers and authorities which by this constitution the Governor is vested with when personally present; and whenever the President shall fill the chair, he shall have no voice in the Senate.

COUNCIL,

COUNCIL.

THERE shall be a Council for advising the Governor in the executive part of government, to consist of five persons, whom the Governor for the time being, shall have full power and authority to convene from time to time, at his discretion, and the Governor, with the Counsellors, or three of them at least, shall and may, from time to time, hold and keep a council, for ordering and directing the affairs of the state, according to the laws of the land.

FIVE Councillors shall be annually chosen from among the people at large, on the first Wednesday of June annually, by joint ballot of the senators and representatives in one room assembled. The qualifications for councillors, shall be the same as those required for senators.

THE resolutions and advice of the council shall be recorded in a register, and signed by the members present, and this record may be called for at any time, by either house of the legislature, and any member of the council may enter his opinion contrary to the resolution of the majority.

AND whereas the elections appointed to be made by this constitution, on the first Wednesday of June annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of the elections shall be as follows; the vacancies in the senate, if any, shall be first filled up; the

Governor shall then be elected, provided there should be no choice of him by the people: And afterwards the two houses shall proceed to the election of the Council.

SECRETARY, TREASURER,
COMMISSARY-GENERAL, &c.

THE Secretary, Treasurer, and Commissary-General, shall be chosen by joint ballot of the senators and representatives in one room: And no man shall be eligible as treasurer or commissary-general of this state, more than five years successively.

THE records of the state shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be answerable, and he shall attend the governor and council, the senate and representatives, in person, or by deputy, as they may require.

COUNTY-TREASURER, &c.

THE County-Treasurers, and Registers of Deeds, shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practised, and the present laws of the state: And before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond with sufficient sureties, in a reasonable sum for the use of the

the county, for the punctual performance of their respective trusts.

JUDICIARY POWER.

THE tenure, that all commission officers shall have by law in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behaviour, excepting those concerning whom there is a different provision made in this constitution: *Provided nevertheless*, the governor, with consent of council, may remove them upon the address of both houses of the legislature.

EACH branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law, and upon solemn occasions.

IN order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall expire and become void, in the term of five years from their respective dates; and upon the expiration of any commission, the same may if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the state.

THE judges of probate of wills, and for granting letters of administration, shall hold their courts

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at such place or places, on such fixed days, as the convenience of the people may require. And the legislature shall from time to time, hereafter appoint such times and places, until which appointments the said courts shall be holden at the times and places which the respective judges shall direct.

ALL causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall, by law, make other provision.

CLERKS OF COURTS.

THE Clerks of the Superior Court of Judicature, Inferior Courts of Common Pleas, and General Sessions of the Peace, shall be appointed by the respective courts during pleasure. And to prevent any fraud or unfairness in the entries and records of said courts, no such clerk shall be of counsel in any cause in the court of which he is clerk, nor shall he fill any writ in any civil action whatsoever.

DELEGATES TO CONGRESS.

THE Delegates of this State to the Congress of the United States, shall sometime between the first Wednesday of June and the first Wednesday of September annually, be elected by the senate and house of representatives in their sepearte branches; to

to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the state ; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead. And they shall have the same qualifications in all respects, as by this constitution are required for the governor.

No person shall be capable of being a delegate to Congress, for more than three years in any term of six years ; nor shall any person being a delegate, be capable of holding any office under the United States, for which he, or any other for his benefit, receives any salary, or emolument of any kind.

ENCOURAGEMENT OF LITERATURE, &c.

K N O W L E D G E, and learning, generally diffused through a community, being essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end ; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures and

natural

natural history of the country ; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and œconomy, honesty and punctuality in their dealings ; sincerity, sobriety and all social affections, and generous sentiments, among the people.

Oath and subscriptions ; exclusion from offices ; commissions ; writs ; confirmation of laws ; habeas corpus ; the enacting style ; continuance of officers ; provision for a future revision of the constitution, &c.

ANY person chosen Governor, Counsellor, Senator or Representative, accepting the trust, shall before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I A. B. do truly and sincerely acknowledge, profess, testify and declare, that the State of New-Hampshire is, and of right ought to be, a free, sovereign, and independent State ; and do swear that I will bear faith and true allegiance to the same, and that I will defend it against all treacherous conspiracies and hostile attempts whatever ; and that I do renounce any subjection and obedience to the Sovereign, or government of Great-Britain, and every foreign power whatsoever, and that no foreign prince, person, prelate, state or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority dispensing

pensioning or other power, in any matter civil, ecclesiastical, or political within this State, except the power and authority which is, or may be vested by their Constituents in the Congress of the United States: And I do further testify and declare, that no man or body of men, hath or can have, a right to absolve me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgement, profession, testimony, declaration, denial and renunciation, honestly and truly, according to the common acceptation of the foregoing words, without any equivocation, mental evasion; or secret reservation whatever.

So help me G O D.

I A. B. do solemnly and sincerely swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as according to the best of my abilities, agreeably to the rules and regulations of this Constitution, and the laws of the State of New-Hampshire.

“ So help me G O D.”

Provided always, When any Person chosen or appointed as aforesaid, shall be of the denomination called Quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such shall take and subscribe them, omitting the word “swear” and likewise the words “ So help me God” subjoining instead thereof, This I do under the pains and penalties of perjury.

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And the oaths or affirmations shall be taken and subscribed by the Governor, before the President of the Senate in the presence of the two Houses of Assembly ; and by the Senate and Representatives first elected under this Constitution, before the President and three of the Council of the former Constitution, and forever afterwards, before the Governor and Council for the time being ; and by the residue of the officers aforesaid, before such persons, and in such manner as from time to time shall be prescribed by the Legislature.

All commissions shall be in the name of the State of New-Hampshire, signed by the Governor, and attested by the Secretary, or his deputy, and shall have the great seal of the State affixed thereto.

All writs issuing out of the Clerk's office in any of the courts of law, shall be in the name of the State of New-Hampshire ; shall be under the seal of the court whence they issue and bear test of the chief, first, or senior Justice of the court ; but when such Justice shall be interested, then the writ shall bear test of some other Justice of the court, to which the same shall be returnable, and be signed by the Clerk of such Court.

All indictments, presentments and informations shall conclude against the peace and dignity of the State.

The estate of such persons as may destroy their own lives, shall not for that offence be forfeited,

forfeited, but descend or ascend in the same manner, as if such persons had died in a natural way. Nor shall any article, which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

All the laws which have heretofore been adopted, used and approved, in the Province, Colony, or State of New-Hampshire, and usually practised on in the courts of law, shall still remain and be in full force, until altered and repealed by the Legislature ; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution.

The privilege and benefit of the Habeas Corpus, shall be enjoyed in this State, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

The enacting stile in making and passing acts, statutes and laws, shall be--**BE IT ENACTED** by the Senate and House of Representatives in General Court convened.

No Governor, or Judge of the Superior Court, shall hold any office or place, under the authority of this State, except such as by this Constitution they are admitted to hold, saving that the Judges of the said Court may hold the offices of Justice of the Peace throughout the State ; nor shall they hold any place or office, or receive

any pension or salary, from any other State, Government or Power whatever.

No person shall be capable of exercising at the same time, more than one of the following offices within this State, viz. Judge of Probate, Sheriff, Register of Deeds; and never more than two offices of profit which may be held by appointment of the Governor, or Governor and Council, or Senate and House of Representatives, or Superior or Inferior Courts; military offices and offices of Justices of the Peace excepted.

No person holding the office of Judge of the Superior Court, Secretary, Treasurer of the State, Judge of Probate, Commissary-General, Military Officers receiving pay from the Continent or this State; excepting officers of the militia occasionally called forth on an emergency, Judge of the Inferior Court of Common Pleas, President, Professor or Instructor of any College, Sheriff, or Officer of the Customs, including naval officers, shall at the sametime have a seat in the Senate or House of Representatives, or Council; but their being chosen or appointed to and accepting the same shall operate as a resignation of their Seat in the Senate or House of Representatives or Council, and the place so vacated shall be filled up.

No person shall ever be admitted to hold a Seat in the Legislature, or any office of trust or importance under this Government, who in the due course of law, has been convicted of bribery

cry or corruption in obtaining an election or appointment.

In all cases where sums of money are mentioned in this Constitution, the value thereof shall be computed in silver at *six shillings and eight pence* per ounce: And it shall be in the power of the Legislature to increase such qualifications as to property of persons to be elected to offices, as the circumstances of the State may require.

To the end that there may be no failure of justice or danger arise to this State from a change of the form of Government, all civil and military officers, holding commissions under the Government and People of New-Hampshire, and other officers of the said Government and People, at the time this Constitution shall take effect, shall hold, exercise and enjoy all the powers and authorities to them granted and committed, until other persons shall be appointed in their stead. All courts of law in the business of their respective departments, and the Executive and Legislative Bodies and Persons, shall continue in full force, enjoyment and exercise of all their trusts and employments, until the General Court and the Supreme and other Executive officers under this Constitution, are designated and invested with their respective trusts, powers and authority.

This form of Government shall be enrolled on parchment, and deposited in the Secretary's office,

office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this State, in all future editions thereof.

To preserve an effectual adherence to the principles of the Constitution, and to correct any violations thereof; as well as to make such alterations therein, as from experience may be found necessary, the General Court shall after the expiration of seven years from the time this Constitution shall take effect, issue their precepts to the selectmen of the several towns, and to the assessors of unincorporated places within this State, directing them to convene the qualified voters therein, for the purpose of collecting their sentiments on the necessity or expediency of revising the Constitution in order for amendments: And if it shall appear by the returns made, that two thirds of the qualified voters throughout the State who shall assemble and vote in consequence of said precepts, are in favor of such revision and amendments, the General Court shall issue precepts, or direct them to be issued from the Secretary's office, to the several towns and unincorporated places to elect delegates to meet in Convention for the purpose aforesaid: The said delegates to be chosen in the same manner and proportion as the delegates to the annual county Conventions, are by this Constitution.



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IN CONVENTION, September 14, 1781.

RESOLVED, that this Convention be adjourned to the fourth Wednesday of January next, to meet at Concord; and that seven hundred copies of the PLAN of Government, which is agreed upon, to be printed, including such as shall be ordered to each member of the General Court, and of the Convention, be sent to the selectmen of each town, and assessors of each plantation, under the direction of the Committee appointed for that purpose: And that the selectmen and assessors be requested as soon as may be to lay the same before the inhabitants of their respective towns and plantations. And if the major part of the inhabitants of said towns and plantations disapprove of any particular part of the same, that they be desired to state their objections distinctly and the reasons therefor. And the selectmen and assessors are desired to transmit the same to the Convention on the fourth Wednesday of January aforesaid, or to the Secretary of the Convention before then, in order for the revision and consideration of the Convention at the adjournment; with the number of voters in said towns and plantations meetings, on each side of the question: That the Convention may be able to collect the general sense of the people of this State on the several parts of the proposed Constitution: And if there should not appear to be two thirds of the people in favor thereof, that the Convention may alter it in such manner as may be most agreeable to the sentiments of two thirds of the voters throughout this State.



E R R A T A.

AT the beginning of page 17, the words,
"A Constitution or Form of Government for the
State of New-Hampshire", were inserted by
mistake.

